

REMARKS

This Application is a continuation of its parent application pursuant to 37 C.F.R. § 1.53(b). As set forth above, claims 1-17 and 19-25 have been canceled and new claims 26-47 have been added. Accordingly, claims 18 and 26-47 are pending in the application.

In the parent application, the Examiner issued an Office Action dated December 24, 2002 rejecting claim 18 under 35 U.S.C. § 102(e) based on U.S. Patent No. 5,602,998 to Alferness (“the Alferness reference”). The remaining claims were either allowed, or rejected or objected to on technical grounds only. In response, the Applicant canceled claim 18 without prejudice and amended the application to place it in condition for allowance. The Applicant is pursuing this continuation application to contest the rejection of claim 18 based on the Alferness reference. Additionally, the Applicant seeks allowance of new claims 26-47.

**Previous Rejection Under 35 U.S.C. § 102(e)**

As set forth above, the Examiner previously rejected claim 18 under Section 102(e) based on the Alferness reference. Specifically, the Examiner stated:

Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Merwin H. Alferness et al. (US Patent No. 5,602,998 and Alferness hereinafter).

Regarding Claim 18, Alferness teaches managing a queue having a plurality of queue headers within a computer system comprising steps of:

attaching a plurality of data structures to the plurality of queue headers, where each data structure is attached to one of the plurality of queue headers; (col. 11, lines 39-67 to col 12, lines 1-17)

controlling operations of the plurality of queue headers utilizing one of a plurality of queue function calls (i.e. enqueued via earlier calls to an Enqueue (ENQ) instruction (col 4,lines 55-56).

Office Action, pages 3-4.

The Applicant respectfully traverses this rejection. Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). In order to maintain a proper rejection under section 102, a single reference must teach each and every element or step of the rejected claim, else the reference falls under section 103. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984).

In the present case, Alfernness cannot anticipate independent claim 18 because Alfernness does not disclose all of the elements set forth in that claim. Specifically, independent claim 18 requires “attaching a plurality of data structures to the plurality of queue headers, where each data structure is attached to one of the plurality of queue headers. . . .” In contrast, Alfernness shows a plurality of queue headers that are somehow associated with queue entries. *See* Alfernness, FIG. 1. Missing from Alfernness is any teaching, suggestion or illustration that the queue entries correspond to data structures or that the queue entries are “attached” to one of the plurality of headers.

Moreover, the passage from Alfernness cited by the Examiner refers to “units of data storage called queue banks, each queue bank being capable of representing a queue header element or a queue entry element of a queue. . . .” Alfernness, col. 11, lines 41-44. Thus, Alfernness seems to indicate that the queue headers and queue entries are interchangeable elements of an integral entity referred to as a “queue bank.” If the queue headers and queue entries are part of an integral unit, the claimed step of “attaching a plurality of data structures to the plurality of queue headers. . . .” makes no sense. Moreover, the structure disclosed in Alfernness gives no hint as to how one of ordinary skill in the art would come up with the acts set forth in independent claim 18. Accordingly, Alfernness cannot anticipate claim 18.

**New Claims**

Claims 26-47 have been added. Those claims are hereby submitted for examination for the first time. The Applicant respectfully asserts that new claims 26-47 are allowable over the prior art of record, including Alferness.

**Conclusion**

Based on the foregoing, the Applicant respectfully asserts that claims 18 and 26-47 recite allowable subject matter, and a notice to that effect is earnestly solicited. Should the Examiner believe that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the number shown below.

Respectfully submitted,

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Michael G. Fletcher  
Reg. No. 32,777  
(281) 970-4545

**CORRESPONDENCE ADDRESS:**

Intellectual Property Administration  
Legal Department, M/S 35  
HEWLETT-PACKARD COMPANY  
P.O. Box 272400  
Fort Collins, CO 80527-2400